

United States Court of Appeals For the First Circuit

No. 19-2205

EDDIE ALBERTO ROMAN,

Plaintiff - Appellant,

v.

CARIBBEAN CINEMA CORPORATION, a/k/a Hatillo Cinema Corp., a/k/a Arecibo Cinema Corp.,

Defendant - Appellee.

Before

Lynch, Kayatta and Barron,
Circuit Judges.

JUDGMENT

Entered: February 22, 2021

Plaintiff Eddie Alberto Roman has appealed from the grant of summary judgment to defendant Caribbean Cinema Corporation in this case pursuant to Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. ("ADA").

Defendant's motion to dismiss the appeal is denied. In his brief, plaintiff essentially challenges the district court's conclusion that defendant's voluntary compliance prevented plaintiff from obtaining any relief. We do not reach this issue, however, because we conclude that plaintiff failed to allege sufficient facts to show constitutional standing in this case. See Dantzler, Inc. v. Empresas Berrios Inventory & Operations, Inc., 958 F.3d 38, 46 (1st Cir. 2020) (noting that Article III standing "is a prerequisite to a federal court's subject matter jurisdiction") (internal quotations omitted). Specifically, plaintiff did not allege facts showing a "real and immediate threat of future injury by the defendant." See City of Los Angeles v. Lyons, 461 U.S. 95, 107 n.8 (1983). We thus vacate the grant of summary judgment and remand for a dismissal for lack of subject matter jurisdiction based on the lack of standing.

To the extent plaintiff makes additional factual allegations with respect to standing in his appellate brief, plaintiff has not shown extraordinary circumstances for us to consider these new

allegations for the first time on appeal. In addition, we warn plaintiff that we will not tolerate the use of disrespectful language towards this court, the district court, and other parties in any future filings by plaintiff.

The judgment of the district court granting summary judgment for defendant is vacated, and the cause is remanded with instructions to dismiss the complaint without prejudice for lack of subject matter jurisdiction.

By the Court:

Maria R. Hamilton, Clerk

cc:

Hon. Silvia L. Carreno-Coll

Maria Antongiorgi Jordan, Clerk, United States District Court for the District of Puerto Rico

Eddie Alberto Roman

Eduardo J. Cobian-Roig